AUTHORITIES

	Page
Baird v. *St. Bar of Arizona*, 401 U.S. 1 (1971)	4
Dent v. *St. of W. Va.*, 129 U.S. 114 (1889)	3
Ferguson v. *Skrupa*, 372 U.S. 726 (1963)	4
Griggs v. *Duke Power Co.*, 401 U.S. 424 (1971)	4
Konigsberg v. *St. Bar of California*, 366 U.S. 36 (1961)	4
Schware v. *Bd. of Bar Examiners*, 353 U.S. 232 (1957)	4

In the
Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-504

THOMAS JAMES SLONE, SR.
Petitioner,

v.

THE SUPREME COURT OF OHIO,
Respondent.

BRIEF IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF OHIO

STATEMENT OF THE CASE

Petitioner has received a law degree from an accredited law school. He is also a professional engineer. However, he has never received a bachelor's degree from any college or university. He is, therefore, not eligible to be admitted to the practice of law under the law of Ohio.

The Constitution of Ohio gives exclusive jurisdiction over admission to the practice of law to the Supreme Court of Ohio. Section 5(B) of Article IV. The standards and requirements for such admission are set forth in Rule XVII of the Rules of Practice of the Supreme Court. Rule XVII provides that in order to be eligible for admission to the practice of law in Ohio a person must have earned a bachelor's degree from an accredited college or university prior to his admission to a law school. Rule XVII also makes provision for a person who earns a bachelor's degree subsequent to graduation from law school. Such a person, if his grades are satisfactory, may, in the discretion of the court, be admitted to the practice of law.

The present requirements of Rule XVII represent another step in the continuing effort of the Supreme Court to upgrade the standards of the legal profession in Ohio. Prior to January 1, 1960, a person who had successfully completed three years of study in an approved college was eligible for admission to law school. Prior to January 1, 1954, a law student need only have completed two years of college.

Petitioner was well aware of this requirement prior to his entrance to law school. By letter dated September 10, 1968, petitioner informed respondent of his desire to enter law school and requested that the requirement of a bachelor's degree be waived in his case. This request was denied. See Appendix A. In spite of the denial of his request for a waiver of the requirement, petitioner entered law school, completed his studies and received a law degree. Petitioner then filed a pleading designated "Complaint For Admission To Bar" in the Supreme Court of Ohio. The court treated the pleading as a request to amend or waive the requirements of Rule XVII. The request was denied by Entry dated June 29, 1972.

Petitioner seeks a writ of certiorari to review this Entry claiming that the refusal of respondent to waive his requirements deprives him of his constitutional rights.

ARGUMENT

No Federal Question Of Substance

A state not only has the power, but also the responsibility, to limit the right to practice a profession to those persons who possess the necessary qualifications and skills. The public often has no means to properly judge the qualifications of professional persons. People must therefore be able to assume that all persons who are licensed to hold themselves out as professionals do possess the required knowledge and skills. This Court commented upon the authority of the state to establish limitations upon the right to practice a profession in *Dent* v. *St. of W. Va.*, 129 U.S. 114, 122 (1889):

> "The power of the state to provide for the general welfare of its people authorizes it to prescribe all such regulations as in its judgment will secure or tend to secure them against the consequences of ignorance and incapacity, as well as of deception and fraud. As one means to this end it has been the practice of different states, from time immemorial, to exact in many pursuits a certain degree of skill and learning upon which the community may confidently rely; their possession being generally ascertained upon an examination of the parties by competent persons, or inferred from a certificate to them in the form of a diploma or license from an institution established for instruction on the subjects, scientific and otherwise, with which such pursuits have to deal. The nature and extent of the qualifications required must depend primarily upon the judgment of the states as to their necessity. If they are appropriate to the calling or profession, and attainable by reasonable study or application, no objection to their validity can be raised because of their stringency or difficulty."

This Court has repeatedly reaffirmed its holding in the *Dent case*. See, e.g., *Baird* v. *St. Bar of Arizona*, 401 U.S. 1, 6 (1971); *Schware* v. *Bd. of Bar Examiners*, 353 U.S. 232, 239 (1957); *Konigsberg* v. *St. Bar of California*, 366 U.S. 36, 40-41 (1961).

It is particularly important to require high standards of skill and education with respect to the practice of law. The authority and responsibility conferred upon attorneys is extraordinary. See, e.g., *Schware* v. *Bd. of Bar Examiners*, *supra*, 353 U.S. at 247 (Frankfurter, J. concurring). As society becomes more complex the law touches the lives of more people. There are few areas of activity which do not have serious legal implications. The general public must therefore rely more and more upon attorneys to guide their conduct and protect their interests.

The particular qualifications necessary for the protection of the general public are to be determined by the individual states. *Dent* v. *St. of W. Va.*, *supra*, 129 U.S. at 122. Each state must be permitted to determine the wisdom, need and appropriateness of its own requirements. The Supreme Court of Ohio has raised the educational requirements necessary for admission to the practice of law. It has determined that the requirement of an undergraduate degree in addition to a law degree will improve the standards of the legal profession. This determination is not clearly erroneous. The requirement therefore must be upheld. *Ferguson* v. *Skrupa*, 372 U. S. 726, 730 (1963).

The cases relied upon by petitioner have no application to the instant case. The requirement involved herein does not infringe upon First Amendment rights. *Schware* v. *Bd. of Bar Examiners*, *supra*, 353 U.S. 232. Neither does it involve discriminatory employment practices. *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971). Petitioner's claim in substance is that he disagrees with respondent as to

whether or not he is qualified to be admitted to the practice of law in Ohio. This disagreement does not raise a constitutional question.

CONCLUSION

The refusal by respondent to waive its requirement for admission to the practice of law does not raise a federal question of substance which has not been decided by this Court or which is not in accord with the decisions of this Court.

Respondent respectfully submits that the petition for a writ of certiorari should be denied.

Respectfully submitted,

WILLIAM J. BROWN
Attorney General of Ohio

THOMAS V. MARTIN
Co-Chief, Special Litigation
State House Annex
Columbus, Ohio 43215
(614) 469-2872

Attorney for Respondent

APPENDIX A.

The Supreme Court of Ohio
Columbus

JOHN W. McMILLAN
CLERK AND
ADMINISTRATIVE ASSISTANT

HAROLD O. SHELTON
JOHN C. McCONNELL
NORMAN L. MYERS
DEPUTY CLERKS

September 23, 1968

Mr. Thomas J. Slone
11518 Imhoff Court
Cincinnati, Ohio 45240

Dear Mr. Slone:

I wish to advise that your petition requesting a waiver of Section 2 (A) (b) of Rule XVII of the Rules of Practice has been submitted to the full Court.

Upon due consideration of your petition, and the other material which you forwarded to this office, it was the decision of the Court that the requirement of having earned a bachelor's degree prior to admission to law school will not be waived.

Accordingly, it will not be possible to approve an application for registration as a law student if you do decide to enter a law school.

If you have any questions concerning the decision of the Court please do not hesitate to contact me.

Very truly yours,

THOMAS L. STARTZMAN

TLS/sb